IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT APPEAL NO : 320 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 21/02/2005 in WP NO : 2166 OF 2005 on the file of the High Court.)

Between:

T. Ramachandra Reddy S/o T. Guruva Reddy
O/o the EE (Water Works), Tirumala,

R/o H. No. 19-12-215 Biragipatteda, Tirupati,

Chittoor District

..... APPELLANT

AND

Tirumala Tirupati Devasthanams, reptd., by Executive Officer,

Tirupati, Chittoor District

.....RESPONDENT

Counsel for the Appellant: MR.M.PANDURANGA RAO

Counsel for the Respondent: MR.A.K.JAYAPRAKASH RAO(SC FOR TTD)

The Court made the following:

JUDGMENT**: (per Sri Justice J.Chelameswar)**

Aggrieved by an order, dated 21.02.2005, passed by a learned single judge in W.P.No.2166 of 2005, the petitioner therein preferred the present writ appeal.

The appellant is an employee of the respondent-Devasthanams (Tirumala Tirupati Devasthanams). The allegation against the appellant is that he tampered with the service record. According to the respondent, the actual date of birth of the appellant is 01.03.1947 but he tampered the same as 01.03.1949. By the proceedings dated 03.02.2005 of the Executive Officer of the respondent, the appellant was directed to be relieved from the service on the afternoon of 28.02.2005 without fail duly withholding of the pensionary benefits, including G.P.F., Welfare fund, GIS, encashment of earned leave, etc. till the finalization of this case. Challenging the said order, the appellant ventured to file the above writ petition.

The learned single judge by the order under appeal came to a conclusion that the respondent-Devasthanams had passed the order dated 03.02.2005 without giving an opportunity to the appellant and accordingly, directed that the proceedings dated 03.02.2005 be treated as show-cause notice calling for an explanation from the appellant herein and on submission of the explanation by the appellant within three days from the date of the said order, the respondent-Devasthanams shall take an appropriate decision in accordance with Rules.

Learned counsel for the appellant, Sri M.Panduranga Rao, argued that as per the Rules of the respondent-Devasthanams, the allegation such as the one made against the appellant would amount to a mis-conduct and for establishment of such a mis-conduct a regular departmental enquiry has to be conducted. But, the respondent-Devasthanams without following the same, passed the order, dated 03.02.2005, and as such, the procedure indicated in the

proceedings dated 03.02.2005 is wholly contrary to the Rules applicable to the appellant. He further argued that the procedure indicated by the learned single judge in the order under appeal also does not specify the requirement of conducting a regular departmental enquiry as per the Rules that are applicable to the appellant.

Heard Sri A.K.Jaya Prakash Rao, learned standing counsel for the respondent.

We see substance in the submissions made by the learned counsel for the appellant. Therefore, the order under appeal is liable to be set-aside.

The writ appeal is accordingly allowed and the impugned order dated 21.02.2005 is set-aside. However, it is brought to our notice that subsequent to the order under appeal, the respondent-Devasthanams issued another proceedings dated 22.02.2005 calling upon the appellant to submit his explanation. In such circumstances, the proceedings dated 03.02.2005 is quashed. It is open for the respondents to conduct a regular departmental enquiry into the allegation levelled against the appellant pending a final decision. It is also open for the respondent either to continue the appellant in service or to take such appropriate action as is permissible in accordance with the service rules applicable to the appellant, because once the service of the appellant is terminated, it is not permissible for the respondent-Devasthanams to conduct any departmental enquiry against the appellant.

The writ appeal is accordingly allowed to the extent indicated above. No order as to costs.

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J. CHELAMESWAR , J

28.02.2005

dr

_____ ***GHULAM MOHAMMED, J***

To

1. The Executive Officer, Tirumala Tirupati Devasthanams,

Tirupati, Chittoor District

2. Principal District Judge, Chittoor

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